

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1148

FINAL READING

(SECOND)

Introduced by Cornett, 45; Aguilar, 35; Baker, 44; Bourne, 8; Brown, 6; Byars, 30; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Foley, 29; Heidemann, 1; Janssen, 15; Jensen, 20; Johnson, 37; Kruse, 13; Landis, 46; Pahls, 31; Dw. Pedersen, 39; Preister, 5; Price, 26; Schimek, 27; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Thompson, 14; Wehrbein, 2; Mines, 18; Redfield, 12

Read first time January 17, 2006

Committee: Rereferred to Health and Human Services

A BILL

1 FOR AN ACT relating to schools; to amend section 25-21,280,
2 Revised Statutes Supplement, 2005; to provide for student
3 possession and self-administration of prescription asthma
4 or anaphylaxis medication; to provide immunity; and to
5 repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) An approved or accredited public, private,
2 denominational, or parochial school shall allow a student with
3 asthma or anaphylaxis to self-manage his or her asthma or
4 anaphylaxis condition upon written request of the student's parent
5 or guardian and authorization of the student's physician, upon
6 receipt of a signed statement under subsection (5) of this section,
7 and pursuant to an asthma or anaphylaxis medical management plan
8 developed under subsection (2) of this section.

9 (2) Upon receipt of a written request and authorization
10 under subsection (1) of this section, the school and the parent
11 or guardian, in consultation with the student's physician, shall
12 develop an asthma or anaphylaxis medical management plan for the
13 student for the current school year. Such plan shall (a) identify
14 the health care services the student may receive at school relating
15 to such condition, (b) evaluate the student's understanding of and
16 ability to self-manage his or her asthma or anaphylaxis condition,
17 (c) permit regular monitoring of the student's self-management of
18 his or her asthma or anaphylaxis condition by an appropriately
19 credentialed health care professional, (d) include the name,
20 purpose, and dosage of the prescription asthma or anaphylaxis
21 medication prescribed for such student, (e) include procedures for
22 storage and access to backup supplies of such prescription asthma
23 or anaphylaxis medication, and (f) be signed by the student's
24 parent or guardian and the physician responsible for treatment
25 of the student's asthma or anaphylaxis condition. The school may

1 consult with a registered nurse or other health care professional
2 employed by such school during development of the plan. The plan
3 and the signed statement required by subsection (5) of this section
4 shall be kept on file at the school where the student is enrolled.

5 (3) Pursuant to the asthma or anaphylaxis medical
6 management plan developed under subsection (2) of this section,
7 a student with asthma or anaphylaxis shall be permitted to
8 self-manage his or her asthma or anaphylaxis condition in the
9 classroom or any part of the school or on school grounds, during
10 any school-related activity, or in any private location specified
11 in the plan. The student for whom an asthma or anaphylaxis
12 medical management plan has been developed under this section
13 shall promptly notify the school nurse, such nurse's designee,
14 or another designated adult at the school when such student has
15 self-administered prescription asthma or anaphylaxis medication
16 pursuant to such plan.

17 (4)(a) If a student for whom an asthma or anaphylaxis
18 medical management plan has been developed under this section uses
19 his or her prescription asthma or anaphylaxis medication other than
20 as prescribed, he or she may be subject to disciplinary action
21 by the school, except that such disciplinary action shall not
22 include a limitation or restriction on the student's access to such
23 medication. The school shall promptly notify the parent or guardian
24 of any disciplinary action imposed.

25 (b) If a student for whom an asthma or anaphylaxis

1 medical management plan has been developed under this section
2 injures school personnel or another student as the result of the
3 misuse of prescription asthma or anaphylaxis medication or related
4 medical supplies, the parent or guardian of the student for whom
5 such plan has been developed shall be responsible for any and all
6 costs associated with such injury.

7 (5) The parent or guardian of a student for whom an
8 asthma or anaphylaxis medical management plan has been developed
9 under this section shall sign a statement acknowledging that (a)
10 the school and its employees and agents are not liable for any
11 injury or death arising from a student's self-management of his or
12 her asthma or anaphylaxis condition and (b) the parent or guardian
13 shall indemnify and hold harmless the school and its employees and
14 agents against any claim arising from a student's self-management
15 of his or her asthma or anaphylaxis condition.

16 Sec. 2. Section 25-21,280, Revised Statutes Supplement,
17 2005, is amended to read:

18 25-21,280 (1) Any person employed by a school approved
19 or accredited by the State Department of Education, employed by
20 an educational service unit and working in a school approved or
21 accredited by the department, or employed by an early childhood
22 education program approved by the department who serves as a
23 school nurse or medication aide or who has been designated and
24 trained by the school, educational service unit, or program as
25 a nonmedical staff person to implement the emergency response to

1 life-threatening asthma or systemic allergic reactions protocols
2 adopted by the school, educational service unit, or program
3 shall be immune from civil liability for any act or omission
4 in rendering emergency care for a person experiencing a potentially
5 life-threatening asthma or allergic reaction event on school
6 grounds, in a vehicle being used for school purposes, in a
7 vehicle being used for educational service unit purposes, at a
8 school-sponsored activity or athletic event, at a facility used
9 by the early childhood education program, in a vehicle being used
10 for early childhood education program purposes, or at an activity
11 sponsored by the early childhood education program which results in
12 damage or injury unless such damage or injury was caused by the
13 willful or wanton act or omission of such employee.

14 (2) The individual immunity granted by subsection (1) of
15 this section shall not extend to the school district, educational
16 service unit, or early childhood education program and shall not
17 extend to any act or omission of such employee which results in
18 damage or injury if the damage or injury is caused by such employee
19 while impaired by alcohol or any controlled substance enumerated in
20 section 28-405.

21 (3) Any school nurse, such nurse's designee, or other
22 designated adult described in section 1 of this act shall be immune
23 from civil liability for any act or omission described in such
24 section which results in damage or injury unless such damage or
25 injury was caused by the willful or wanton act or omission of such

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1 school nurse, nurse's designee, or designated adult.

2 Sec. 3. Original section 25-21,280, Revised Statutes

3 Supplement, 2005, is repealed.